ABSTRACT of Proceedings in Council, relative to the Grant, directed to be made of the Jesuits Estates, in Canada, to the late JEFFERY Lord AMHERST.

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ABSTRACT

OF

PROCEEDINGS in COUNCIL, relative to the Grant, to the late *Jeffery* Lord *Amherſt*, of the Eſtates, belonging to the Jeſuits, in Canada: With the Dates of the ſeveral Orders made by His MAJESTY in Council, in that Behalf; and REPORTS of the late Board of Trade, and of His MAJESTY's Law Officers for the Time being.

ON the 24th May 1770 His Majeſty was pleaſed to refer, to a Committee, a Petition from Jeffery Lord Amherſt to His Majeſty in Council, ſtating, That His Majeſty having been graciouſly pleaſed to ſignify his Intention of beſtowing a Mark of His Royal Favour, in America, on the Petitioner; and praying a Grant of the Eſtates belonging to the Jeſuits in Canada. May 1770

This Petition was referred, by the Committee, to the Board of Trade; who made their Report thereon, dated 7th June following, but offered no decided Opinion upon the Petition of Lord Amherſt.

On the 2d November 1770 the Lords of the Committee made their Report to His Majeſty; and ſubmitted, that His Majeſty's Attorney and Solicitor General ſhould be directed to prepare the Draft of a proper Inſtrument, to be paſſed under the Great Seal, for granting to Lord Amherſt the Eſtates belonging to the Jeſuits in Canada; reſerving to His Majeſty, for Public Uſes, the Colleges and Chapels, with their Appurtenances, which belonged to the Society in Quebec, Montreal, and Trois Rivieres; the Grantee engaging to make Satisfaction to ſuch of the then Poſſeſſors as were in Poſſeſſion at the Time of the Conqueſt.

The Report was approved, and an Order made, containing Directions as above, to His Majeſty's Attorney and Solicitor General; who, by a Report dated 14th December 1770, ſubmitted, that they could not proceed

in preparing the Inſtrument, for want of an authentic Account of the Nature and Deſcription of the Eſtates intended to be granted by His Majeſty.

On the 20th December 1770 another Petition was preſented by Lord Amherſt, praying, That His Majeſty would renew his Order to the Attorney and Solicitor General, for preparing the Draft of Grant, and containing a Particular of the Eſtates, &c. with an Affidavit annexed of General Murray (the then Governor of Quebec) to the ſame Effect; which Petition was referred to the Law Officers by His Majeſty's Order in Council, bearing Date the 21ſt December 1770, and in caſe the ſame contained an authentic Account of the Nature and Deſcription of the ſaid Eſtates, they were to prepare the Draft of the Grant, &c. But it appears, by the Report of His Majeſty's Law Officers, in return to the ſaid Order, that the ſaid Affidavit of General Murray did not, in their Opinion, ſet forth an authentic Account of the Nature and Deſcription of the Eſtates intended to be granted.

1771. On the 8th March 1771 a further Petition was preſented by Lord Amherſt, ſtating, That he had lately received from Canada a particular Account and Deſcription of the Eſtates belonging to the Jeſuits in that Province, certified by the Clerk of Enrolments to be conformable to the Regiſters of the Intendant's Office, and thoſe of the ſuperior Council of Quebec, &c. &c.; which Petition, and Papers annexed thereto, were referred to His Majeſty's Law Officers, to conſider the ſame, with ſuch further Accounts and Proofs as ſhould be laid before them, and to prepare the Draft of Inſtrument for making a Grant to the Petitioner, agreeable to His Majeſty's former Order.

March 1779. A further Petition was preſented by Lord Amherſt, praying, That His Majeſty would renew his former Order to the Attorney and Solicitor General, for preparing the Draft of Grant, and would empower them to receive and admit ſuch further Evidence as ſhould be laid before them, for aſcertaining the Deſcription, Boundaries, and Tenure of the ſaid Lands; and was referred to the Law Officers accordingly.

July 1786. On the 6th July 1786, His Majeſty's then Attorney and Solicitor General made their Report to His Majeſty, in return to the preceding Order, and to the former Orders of the ſame Tenour; by which it appears, that Lord Amherſt had forborne to lay before them ſome Document or Documents, in his Poſſeſſion, for the better aſcertaining the Nature, &c. of the Lands, by reaſon of the Troubles which, in 1779, and

for

for ſome Years afterwards, ſubſiſted in North America; and ſubmitting, that the additional Evidence produced, was ſtill inſufficient to aſcertain various Particulars neceſſary to be known; viz.

The preſent Titles, by which the Lands were poſſeſſed:

The Perſons by whom poſſeſſed:

Their preſent Value, and the Nature of the Tenures by which they were holden:

The exact local Situation; their Extent and Population, and whether any and what Claims are made by the Heirs of the Donors of ſuch Part of the Lands as were given to the religious Order by private Perſons.

And the Report concludes by ſubmitting, that the ſaid ſeveral Particulars, and all other material Circumſtances attending the Lands in queſtion, may be beſt aſcertained by an Enquiry, inſtituted in the Province by Commiſſioners to be appointed by His Majeſty's Governor, or by ſuch Proceedings in the Nature of an Inquiſition as he ſhould find moſt conſonant to the Laws and Uſages of the Province, to inſtitute for that Purpoſe; and that until theſe Particulars ſhould be fully aſcertained, they were ſtill unable to prepare ſuch Grant to the Petitioner as would be valid in Law.

This Report from the Law Officers was referred by His Majeſty to the Conſideration of the Lords of the Committee of Privy Council for Trade and Foreign Plantations; who, by their Report to His Majeſty, dated the 10th of the ſaid Month, ſubmitted their Opinion, That, in Conſideration of the Difficulties and Delay that had hitherto attended the carrying into Effect His Majeſty's gracious Intention in favour of the Petitioner, His Majeſty might authorize and direct the Governor of the Province of Quebec to cauſe the ſeveral Particulars, ſtated by the Attorney and Solicitor General in their above Report, and all other Circumſtances attending the Lands in queſtion, to be aſcertained by Commiſſioners to be appointed, &c. &c. &c.; and that, upon return thereof, the Governor ſhould paſs a Grant, under the Seal of the Province, to the Petitioner, his Heirs and Aſſigns, of ſo much of the Eſtates belonging to the Jeſuits, in the ſaid Province, as might be legally granted, under ſuch Tenures, and ſubject to all ſuch Payments and other Rights of Seigniory, as might by Law belong to His Majeſty, and under the Reſervations and Conditions mentioned in His Majeſty's former Order of the 6th November 1770, and excepting therout ſuch Parts or Parcels thereof as His Majeſty's Governor ſhould judge neceſſary to be

be reſerved for public Uſes; and ſuch Grant to be ſubmitted to His Majeſty's further Conſideration.

On the 18th Auguſt 1780 the foregoing Report of the Lords of the Committee for Trade was approved by His Majeſty, and an Order iſſued accordingly to the Governor of the Province of Quebec.

In purſuance of this Order, a Return was made by Lord Dorcheſter, the then Governor of Canada, of all the Proceedings which had taken place in that Province, with reſpect to the Survey of the Lands in queſtion; and his Lordſhip, in his Letter accompanying the ſame, aſſigned his Reaſons why he had not prepared a Grant of the ſaid Lands in conformity thereto.

At a later Period a Return was made, by Governor Milne, of the actual Value and Revenue of thoſe Eſtates, as made out by the Commiſſioners for the Management of the ſame. Governor Milne, in his Letter tranſmitting the ſame, which bears Date 23d February 1801, obſerves, that the Information moſt to be depended on would certainly have been obtained by means of a Papier Terrier; but his Objections to that aroſe from finding it would not only have been attended with a conſiderable Expence, but that it would have taken up much more Time.

The Governor believes, however, that the Valuation (as now made) cannot be materially wrong; and ſtates the Annual Revenue in 1801, according to the Firſt Report dated the 13th January, as amounting to £. 1,245. 5 s. 4 d. exclusive of the Property ſituated within the Cities of Quebec and Montreal.

The Letter refers to a Second Report, dated the 6th of February 1801, and mentions that it is computed that the Conceſſions made ſince that Time have increaſed the Annual Revenue to £. 1,353. 13 s. 4 d.

June 1791. In the Month of June 1791 the late Lord Amherſt preſented another Petition, renewing his Prayer, That the Governor or Lieutenant Governor for the Time being might be ordered to paſs without further Delay the Grant in queſtion, of all the ſaid Eſtates, which ſhould appear, from the Reports of the Commiſſioners appointed in purſuance of His Majeſty's Order of the 18th Auguſt 1786, and by the Report of His Majeſty's Law Officers in the Province, His Majeſty might legally give and grant.

This Petition was alſo referred to the Committee; but it does not appear to have been taken up during the Life of the late Lord Amherſt.

On

On the 9th of May 1708 the preſent Lord Amherſt preſented his Petition to His Majeſty in Council, ſtating all the Proceedings which had taken place, and particularly the Order of the 18th Auguſt 1786, which directed the Governor to appoint Commiſſioners, and inſtitute an Inquiry in the Province for aſcertaining the Nature of the Lands, &c. and that the Proceedings, under the ſaid Commiſſion, had been returned, together with a Digeſt or Analyſis thereof, and the Report of the Law Officers in Canada; and praying that the ſaid Law Officers in Canada might be directed to prepare a Grant of all ſuch Parts or Portions of the Eſtates late belonging to the Society of Jeſuits, as are particularly aſcertained by the ſaid Report; or that a Grant might be prepared of ſuch Parts of the ſaid Eſtates, and the Profits thereof, as His Majeſty ſhould think proper and beſt calculated to effectuate His Majeſty's Bounty to the late Jeffery Lord Amherſt. May 1798

This Petition was referred to a Committee; who recommended to His Majeſty to make ſuch Grant accordingly, under the ſpecial Reſervation, Proviſion, and Declaration, that, when the clear Yearly Profits of the ſaid Eſtates ſhall exceed £. 2,400. Sterling, Lord Amherſt ſhould account to His Majeſty for the ſurplus Profits, after being allowed ſuch Sums as he ſhould have expended in ſettling, cultivating, and improving the ſaid Eſtates, and all other Expences which Lord Amherſt ſhould in any Manner have been put to, in and about the ſaid Eſtates, which had not hitherto appeared to have yielded any Revenue or Advantage to His Majeſty; and alſo to be allowed the Charges attending the ſeveral Orders and Commiſſions in Canada, and other Proceedings, to aſcertain the Nature and Deſcription of the ſaid Eſtates, and alſo ſuch further Expences as might be incurred in paſſing and carrying the Grant of the ſaid Lands into Effect; and that His Majeſty's Attorney and Solicitor ſhould prepare a Draft of ſuch Grant to be paſſed under the Great Seal of the Province, under the before-mentioned ſpecial Reſervation, Proviſion, and Declaration, reſpecting the ſurplus Profits, and containing the Reſervations ſpecified in the former Orders; and further reſerving to His Majeſty ſuch other Parts and Parcels of the Lands as His Majeſty's Governors had actually applied to the Erection of Hoſpitals, Barracks, and other public Uſes; and on the 23d January 1799, this Report was approved, and Order iſſued to the Attorney and Solicitor General accordingly.

In return to the above-mentioned Order, His Majeſty's Law Officers made their Report, with the Draft of a Grant annexed, but ſubmitted, that the Lands to be conveyed by the ſaid Grant, lying within the Province of *Lower Canada*, with the particular Circumſtances of which, and more eſpecially with the Tenures, and proper Deſcription thereof, not being

being perfectly informed, they could not conſider themſelves as being perfectly competent to frame an Inſtrument which might not be liable to Objection, and therefore ſubmitted, that the ſame ſhould be fully conſidered by the Law Officers in Canada; and thereupon the Lords of the Committee, to whom the ſaid Report and Draft of Inſtrument had been referred, recommended that His Majeſty ſhould approve of the Draft; but that, previous to the ſame paſſing the Seal of the Province, the Governor ſhould be directed to conſult the Law Officers of the Province with reſpect to ſuch Proviſions and Alterations, as, upon due Conſideration of the Nature of the Tenures, and proper Deſcription of the Lands, might appear to them adviſable to be added to, or inſerted in, the ſaid Grant.

It is preſumed, that a Return was made to this Order by the Governor, in the Spring of 1801; for it appears by the Council Book, that, on the 14th April 1801, a Letter was written to the Attorney General, ſtating, that ſeveral Proceedings had taken place in the Province upon the Reference made to His Majeſty's Law Officers *there*, of the Draft of the Grant prepared here and tranſmitted as above mentioned; and that the Law Officers in Canada had, by their Report to the Governor, bearing Date the 15th November 1799, ſtated certain Objections to the Validity of the ſaid Inſtrument, as then conſtructed, according to the exiſting Laws of Canada; and the Letter went on to direct His Majeſty's Attorney and Solicitor General *here*, to take into Conſideration the Draft of the Original Inſtrument, and alſo the ſaid Report of the Law Officers in Canada, and report their Opinion —

Firſt, Whether the ſaid Alterations and Amendments were proper to be adopted?

Secondly, in caſe they ſhould be of Opinion, that ſuch were proper, Whether it would be neceſſary that a new Draft of Inſtrument ſhould be prepared and ſubmitted to His Majeſty for Approbation; or whether it would be ſufficient, in caſe His Majeſty's Attorney and Solicitor concurred in Opinion with the Law Officers in Canada, to direct the Governor to cauſe the ſaid Alterations and Amendments to be inſerted in the Inſtrument already prepared?

In anſwer to this Letter, His Majeſty's Law Officers made a further Report to the Lords of the Committee, ſtating many Objections which occurred to them in reſpect to the Proviſion under which Lord Amherſt was to hold the Lands, and be made accountable for the ſurplus Profits of the Eſtates beyond £. 2,400. per Annum.

That

That it would render his Lordſhip a Public Accountant, and expoſe him and his Under-tenants to endleſs Difficulties and Perplexities; and that it would operate as a Bar to the full Improvement of the Eſtates, and conſequently to the Revenue to be derived from the ſame to His Majeſty; inaſmuch as the Agents employed by Lord Amherſt could hardly be expected to look further than the Perception of the Proportion of Rent granted to Lord Amherſt for his own Uſe.